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TRIBUTE

IN MEMORIAM: J. GORDON HYLTON

Long time former Marquette University Law School faculty member, J. Gordon Hylton died on May 2, 2018. Gordon became a member of the Marquette University Law School faculty in 1995, served as the Interim Director of the National Sports Law Institute from 1998 to 1999, and served on its Board of Advisors from 1999 to 2017. He also taught several sports law courses at Marquette University Law School including co-teaching the “Contemporary Issues in Sports Law,” “Sports, Law and Society” seminars, and “Professional Sports Law.” The following memorial includes tributes from the current and former Directors of the National Sports Law Institute, and memorials from various members of the Marquette University Law School faculty.

In the 1990s, the future of the then National Sports Law Institute was in flux. The Institute was in the former Children’s Hospital site on 17th and Wells and was connected to the law school only through the students who were interested in NSLI activities and the few courses Professor Martin Greenberg taught. By 1996, I learned that Dean Howard Eisenberg and the law school faculty were conducting a review of the Institute and sports law at Marquette. I soon became heavily involved in that review as our Director and Assistant Director both resigned. During this review, my main connection to the law school was Professor Gordon Hylton, a member of the committee reviewing the future of the Institute.

I first met Gordon in 1996 at Hegarty’s pub near the Marquette campus. Then third-year student Bill Miller and I were at lunch and Bill introduced me to Gordon whom he had met at the law school. I had seen Gordon at a few of our events, and when he became a member of the committee reviewing the future of the Institute, he communicated with me regularly about its progress. In the spring of 1997, I was told that one of the first decisions of the committee was to move the Institute from its 17th street office into Sensenbrenner Hall, the former home of the law school. I found myself to be the only employee left to

move the Institute, something I completed in the summer of 1997. Soon after, Gordon approached me and told me that Dean Eisenberg had asked him to serve as Interim Director of the Institute, something I enthusiastically supported. He asked me to stay on as Assistant Director continuing to run the Institute on a day to day basis.

Gordon served as Interim Director from 1998 to 1999 and for a short time had an office within the Institute. This was short-lived as Gordon was notorious for accumulating books, many on the history of sports and baseball in particular, and so we soon ran out of space and moved these books, in boxes where they stayed for many years, into his faculty office. During his two years as Interim Director Gordon helped convince the faculty that the study of sports law was a valid educational pursuit, and we created a Seminar that we co-taught in 1999.

Once Matt Mitten came in as our Director in 1999, Gordon's active role in the operations of the Institute and what became the Sports Law Program declined, but his presence was often felt. Known as "the" sports law historian, Gordon's knowledge of the history of sports was astounding. You could not engage in small talk with Gordon, you had to be ready to sit for at least an hour, often reminding him that he needed to leave as one of his classes was about to start.

As the years went by Gordon started to only be at Marquette one semester a year, and I did my best to always give him a time to speak with our students on items of his particular interest from the history of baseball in Milwaukee,¹ to the history of the Redskins name and logo,² topics that he often wrote about on the Marquette University Law School faculty blog.³

I last saw Gordon in the summer of 2015 when he was packing up his office to move to the University of Virginia School of Law full-time. Fittingly we went to the Milwaukee Brewers game that night. I had some advance tickets to see the newly opened Selig Experience attraction, and ever the baseball historian, Gordon jumped at the chance to go, thoroughly enjoying the attraction and its history of baseball in Milwaukee. I do not remember the opponent, the score, or even where our seats were. I do remember learning again that

1. J. Gordon Hylton, *Why Milwaukee Lost The Braves: Perspectives On Law And Culture From A Half-Century Later*, MARQ. U. L. SCH. FAC. BLOG, June 3, 2014, <https://law.marquette.edu/facultyblog/2012/01/01/why-milwaukee-lost-the-braves-perspectives-on-law-and-culture-from-a-half-century-later/>.

2. J. Gordon Hylton, *Why Did The Washington Redskins Choose The Name "Redskins" In The First Place, Rather Than Some Other Native American Name?*, MARQ. U. L. SCH. FAC. BLOG, June 3, 2014, <https://law.marquette.edu/facultyblog/2014/06/03/why-did-the-washington-redskins-choose-the-name-redskins-in-the-first-place-rather-than-some-other-native-american-name/>.

3. A compilation of Professor Hylton's work on the Marquette University Faculty Blog can be found here <https://law.marquette.edu/facultyblog/author/gordon-hylton/>.

Gordon's knowledge of baseball was unparalleled and that a night at a game with him was as much about listening and learning as it was about enjoying the game.

Gordon and I lost touch after he left Marquette and while I was putting together a list of events for this next academic year, thinking it was about time to invite him back to talk with our students, I learned of his passing last spring. Gordon is irreplaceable, as a friend, a teacher, and "the" sports law historian. He was invaluable in helping us move from a fledgling Institute with a few courses, to what we now know as the most comprehensive Sports Law Program in the country. His stories, his humor, and his commitment to learning will be missed.

Paul M. Anderson
Adjunct Professor of Law
Director, Sports Law Program and
National Sports Law Institute
Marquette University Law School

I was saddened to hear about Professor Gordon Hylton's recent passing. I vividly remember receiving a September 1998 call from Gordon inviting me to apply for the position of Director of the National Sports Law Institute (NSLI), which I did and was honored to be chosen as his successor (at the time he was the NSLI's interim director). After joining the Marquette Law faculty in August 1999, Gordon became a trusted advisor on numerous NSLI and Sports Law program matters. In addition, he was a font of knowledge regarding sports legal history (accurately characterized as a true Renaissance man on this topic given the extensive breadth and depth of his knowledge) as well as an expert who had a well-informed opinion on many current sports law issues. Gordon played an instrumental role in the development and evolution of the NSLI and Sports Law program during the many years he was a member of the Marquette faculty and NSLI's Board of Advisors. Gordon was a good friend and well-respected colleague whom I miss very much.

Matthew J. Mitten
Professor of Law and Executive Director
National Sports Law Institute
Marquette University Law School

When Gordon Hylton arrived at Marquette University Law School as a visiting professor in the fall of 1995, my son-in-law, Michael Altman, a partner

at Michael Best & Friedrich, forewarned me that Marquette was the benefactor of one of his best law school professors at Washington University in St. Louis, Missouri. Michael advised me that Gordon was a history buff and maybe even knew as much about the history of baseball as Bud Selig.

The National Sports Law Institute (NSLI) was a factor in Gordon's decision to ultimately come to Marquette as a visiting professor and to eventually become a permanent faculty member in the spring of 1996. It was not too long until everyone at Marquette recognized that Gordon was a scholar, historian, and incredibly intellectually curious.

Immediately upon his arrival at Marquette, he became an outspoken supporter of the mission of the NSLI and helped teach the seminar "Contemporary Issues in Sports Law." He and Paul Anderson also created a new sports law seminar focusing on the history of the regulation of the sports industry entitled "Sports, Law and Society," which they first taught in 1999.

Gordon recognized that the NSLI was widely recognized for its contributions to the sports industry and that sports law was a major attraction to students applying to Marquette University Law School.

In 1997 I left the position of Director of the NSLI. As the Law School undertook a review of the Institute and sports law at Marquette Gordon was appointed Interim Director, serving in that role in 1998 and 1999. During his tenure as Interim Director, the curriculum was enhanced, and in the fall of 1998, the NSLI hosted its first ever academic sports law conference, which was co-sponsored by the Association of American Law Schools, titled "Sports Law in the 21st Century" in the fall of 1998. Gordon's term ended with the hiring of Matt Mitten from the South Texas College of Law as the new Director of the NSLI. The NSLI has flourished and grown under Mitten and Anderson's leadership.

Gordon was a baseball man. He understood the history of the game and the place of baseball in America's culture. Often, we would have discussions relative to the importance of the Negro Leagues in American baseball history. A scholar, a fine gentleman, his loss to the area of law will be greatly felt.

Martin J. Greenberg
Adjunct Professor of Law
Founder and Director (1992-1997)
National Sports Law Institute
Marquette University Law School

REMEMBERING PROFESSOR GORDON HYLTON⁴BY: EDWARD FALLONE⁵

The Marquette Law School community is saddened by the news that Professor J. Gordon Hylton has passed away at age 65, following a battle with cancer.

Gordon was a wonderful colleague on the Law School faculty. He joined the faculty at Marquette University Law School in 1995, after teaching previously at the Chicago-Kent College of Law of the Illinois Institute of Technology. Gordon left Marquette Law School in 2015 to join the faculty at the University of Virginia School of Law full time (having visited at UVA many semesters previously). He also served a memorable year as the Fulbright Professor of Law at Kyiv-Mohyla Academy in Kiev, Ukraine. A wonderful In Memoriam webpage celebrating Gordon's career appears on the website of the University of Virginia School of Law.

Gordon taught courses in Property Law, Trusts and Estates, and Legal History, among others, and was also closely involved with the National Sports Law Institute at Marquette Law School. He was a frequent contributor to the Marquette Law School Faculty Blog, where he was known for his posts on the history of Marquette Law School in general⁶ and on the often overlooked athletes who had a historical connection with our institution.⁷ His blog posts were sometimes quirky, often obscure, but always among the most interesting to appear on the Faculty Blog.

In a memorable interview on the Faculty Blog from 2012, Gordon gave some insight into his love of sports, especially baseball, and how it intersected with his love of the law.⁸

4. This remembrance first appeared on May 3, 2018, in the Marquette University Law School Faculty Blog at <https://law.marquette.edu/facultyblog/2018/05/03/remembering-professor-gordon-hylton/>.

5. Associate Professor of Law, Marquette University Law School.

6. See for example, J. Gordon Hylton, *The Law Professor Who Coached the Marquette Football Team*, Marquette University Law School Faculty Blog, January 17, 2017, available at <https://law.marquette.edu/facultyblog/author/gordon-hylton/>.

7. See for example, J. Gordon Hylton, *Marquette's First Basketball All-American Was A Marquette Law Student*, Marquette University Law School Faculty Blog, February 15, 2014, available at <https://law.marquette.edu/facultyblog/author/gordon-hylton/page/2/>.

8. Melissa Love Koenig, *An Interview with Professor J. Gordon Hylton*, Marquette University Law School Faculty Blog, January 13, 2012, available at <https://law.marquette.edu/facultyblog/2012/01/13/an-interview-with-professor-gordon-hylton/>.

He said:

For people who are interested in law, organized baseball represents a fascinatingly self-contained legal system. The sport is like a legal matryoshka doll—one of those Russian dolls where every time you open up the doll, there is another doll inside. The baseball industry is governed by a hodgepodge of statutes and court interpretations. Inside the industry, the game is governed by a mesh of contractual agreements and other restraints of trade; the standard player contract that ties players to teams is like a miniature constitution; and on the field the game is defined by a legal-code-like rule book and presided over by judicial figures known as umpires. And then there are the unwritten rules. Following baseball from a legal perspective is like taking a course in comparative law.⁹

In my opinion, Gordon's dedication to the study of legal history flowed directly from his commitment to learn and understand the truth. Whether he was writing about the challenges faced by African American lawyers in the early 20th century, or exploring the origins of Jesuit legal education, or calling Thomas More "overrated" as a lawyer, Gordon typically questioned the accepted wisdom and sought to uncover the true facts. In so doing, Gordon often challenged me to defend my own assumptions, both in public when we participated in faculty panels and in private over lunchtime conversation. For that reason, among many others, Gordon was a great friend and the perfect colleague. He will be missed.

9. *Id.*

J. GORDON HYLTON: IN MEMORIAM 1952-2018¹⁰BY: ALAN MADRY¹¹

On May second, the Marquette community lost one of its most interesting, wonderfully eccentric, and beloved members, Professor Gordon Hylton, who died of complications from cancer. Academics by and large are an enthusiastic group of people with extraordinary jobs that give them a privileged opportunity to study and share their passions with colleagues and students. No one more thoroughly enjoyed and reveled in being part of that world than Gordon Hylton. He was a devoted teacher, a relentless, careful, and thorough scholar, and a cherished colleague.

I personally found Gordon to be one of the most interesting people of my acquaintance largely because he had so many interests, found so many things fascinating, and, aided by a legendary memory, pursued them with passion and rigor and a remarkable urge to synthesize, to explain everything. And he was generous. He enjoyed nothing so much as chatting with his students and his colleagues about baseball, country music, the odd personalities who sat on the Supreme Court, the reasonableness of property doctrines, the early history of Christianity, and always with great enthusiasm and courtesy, as if knowledge and insight were both important and the most fun.

Professor Hylton was a native of Pearisburg, a small town (population, 2,699 in 2016) in Giles County in the SW corner of Virginia near the border with West Virginia. He began his college and university career at Oberlin College in Ohio, where, he often explained, he enrolled because they let him play baseball. In the course of his four years at Oberlin, the student radio station also let him host a country music program in the late night, early morning hours. Oberlin nurtured a pronounced competitive streak. His roommates recall Gordon organizing them to enter a team in every intramural sport including inner tube water polo despite the fact that Gordon did not know how to swim, something his teammates discovered only well into the water polo season.

Following Oberlin, Gordon attended the University of Virginia Law School where, among other things, he and a group of friends founded what would become the North Grounds Softball League, the North Grounds referring to the part of the UVA campus, removed from the central campus, that included the

10. This memorial originally appeared on June 14, 2018, in the Marquette University Law School Faculty Blog at <https://law.marquette.edu/facultyblog/2018/06/14/j-gordon-hylton-in-memoriam-1952-2018/>. It is reproduced here with permission.

11. Professor of Law, Marquette University Law School.

law school and the Darden School of Business. Gordon also served as an editor on the Virginia Law Weekly, a publication of the students of the UVA law school. It was while he was a law student that Gordon also began a masters degree in history.

Upon graduating from law school, Gordon clerked for Justice Albertis S. Harrison and Chief Justice Lawrence I'Anson of the Supreme Court of Virginia, and worked briefly for the Massachusetts Commission Against Discrimination. Gordon was also able to finish his master's thesis in history while clerking.

It was only then that Gordon finally was able to pursue a cherished goal – a PhD from Harvard. Gordon once admitted that had he been accepted into graduate school at Harvard straight out of Oberlin, he might never have gone to law school. He was among the earliest students in Harvard's interdisciplinary graduate program in American culture with a particular interest in history and literature. Gordon's dissertation was on the admission of African-American lawyers into the Virginia bar, a subject he pursued with an ever broader focus his entire scholarly career. While in graduate school, Gordon was one of the assistant senior tutors of Dunster House, one of the twelve undergraduate residential houses, a house that counts among its illustrious alumni Al Gore along with his then roommate Tommy Lee Jones, Norman Mailer, and Caspar Weinberger. For a short while, and with a fierce devotion, as his fellow tutors recall, Gordon dominated the little-known pin ball game in the Dunster House basement.

Gordon arrived at Marquette in the Fall of 1995 after teaching at Chicago-Kent College of Law in Chicago, where three times he was named professor of the year, and Washington University Law School in St. Louis where he was the only visiting professor to be named professor of the year. At Marquette, Gordon continued to distinguish himself as a teacher. Early on, he received the Ghiardi Award for Excellence in Teaching as well as the teaching award presented by the Phi Delta Phi Legal Fraternity.

Gordon never regarded law teaching as merely preparing students for a job in the law. Education generally for Gordon was always more, it was about preparing students for a critically reflective life and, especially for law students, wise leadership in their communities. He saw himself preparing tomorrow's senators and chief justices and the heads of corporations and non-profits. He never just taught doctrines; he always asked if the law on the books was coherent and made good moral sense.

But Gordon also took a deeply personal interest in his students and was generous with his time. Michael Mazza, among Professor Hylton's first students at Marquette, remembers a class that Gordon team taught with Professor Dan Blinka. "That was an unforgettable class. It was an honor and a delight for my classmates and me to sit at the feet of a professor with such a great mind

as his, listening to him wax poetic about everything from Wisconsin's defiance of the U.S. Supreme Court regarding the Fugitive Slave Act in *In Re: Booth* to the internecine conflict between Wisconsin's two law schools, including the story of how the Marquette Law School was once chastised in 1915 by the dean of UW-Madison Law School for helping 'immigrants and sons of immigrants' gain access to the bar." Mr. Mazza also remarked of Gordon, "But Gordon was more than a teacher; he was also a kind friend and a trusted mentor – to me and to many others. I had gone to law school later in life, after my wife and I already had four children, and Gordon very kindly reached out to me early on to help me navigate the waters of going through law school as an older student."

Melissa (Greipp) Love Koenig, who later joined the faculty of the law school, also remembers Gordon as an extraordinary teacher. "Gordon was one of the smartest and nicest people I have known. But Gordon was also a creative problem solver who enthusiastically supported new initiatives and ideas in legal education and lawyering, about which he cared deeply. On more than one occasion, both when I was a student and faculty colleague, Gordon stopped me in the hall, or sent an email, encouraging me to follow up with an idea or concept that we had earlier discussed."

With his colleagues, Gordon was equally generous. His broad network of friends from everywhere he went served the law school well. He participated in every aspect of the life of the law school; he taught in every one of its foreign programs, enjoyed a Fulbright Fellowship to the Ukraine; he was a constant presence in every workshop, seminar, conference, lunch or dinner, always contributing with courtesy and a marvelously encyclopedic, and legendary long-term memory, a true miracle of nature. He had an uncanny recollection of not only supreme court decisions but also the quirky personalities and personal histories of the justices. To the delight of many, his memory and interests ran the gamut of popular culture. Early in our acquaintance Gordon solved the perplexing mystery of the huge physical differences among Adam, Hoss, and Little Joe, Ben Cartwright's three sons on *Bonanza*. He explained that the sons had three different mothers, each succumbing on the long trek west out to the Ponderosa. I'm pretty sure that Gordon even recalled the names of each wife and where she and Ben met.

His short-term memory was also legendary but for other reasons. His secretary, Sharon Hill, remembers him regularly losing coats, cell phones, books, and even his glasses. At one point, Professor Hylton finally decided that if he were to travel anywhere in the course of a day other than between house and school, he would provide Ms. Hill with his itinerary. She became adept at retracing his steps to recover lost coats and cell phones. Gordon himself liked to tell the story of the time that he called his research assistant with a request for

some work only to be reminded gently by the student, “I’m happy to do the research, but you do remember that I graduated last year.”

Gordon had an endless passion for baseball and even for someone like me, who has no interest in baseball, we could talk for hours about baseball because those conversations were never about just baseball. They were about the place of baseball in the history of American culture and the growth of sport as an aspect of the country’s response to capitalism and industrialization. Baseball, Gordon explained, provided a safer alternative to boxing and horse racing for factory workers and at the same time created an esprit among coworkers and management. This was typical of Gordon’s approach to all of his passions: to synthesize and find the patterns and relationships, how everything related to everything else, the grand unified field theory of everything.

There are some scholars in the academy who, wholly apart from their scholarly output, are regarded as enormous resources because of their learning and insight but also their generosity in sharing their insights with others. Gordon was of that extraordinary class. Professor Michael McChrystal remembers Gordon as “a world class raconteur. It was such a pleasure to hear the stories he had uncovered. He was so curious, so interested in the context and texture of the persons and events he described.” Professor David Papke similarly remembers Gordon as an extraordinary colleague. “I treasured Gordon not only as a trusted friend but also as a thoughtful conversationalist, a person who amiably exchanged information regarding an extraordinarily wide range of subjects. What led to his remarkable conversational ability? It was not that Gordon was a mere collector of trivia, but rather that he deeply respected humankind and loved reflecting on noteworthy things that humans do – play sports, perform music, write books, teach students, act in plays and movies, and, most generally, make history.”

Professor Tom Hammer summarized a common sentiment. “One of the great things about being an academic is working with a lot of interesting people and having interesting conversations. But Gordon was by far the most interesting person I’d ever met.”

No memorial to Professor Hylton would be complete without mentioning his devotion to and pride in his family, his four children, Veronica, Joseph, Elizabeth, and Caroline, each of whom, following in their father’s footsteps, has enjoyed a distinguished academic career. For the last few of his twenty years at Marquette, Professor Hylton was commuting weekly from Charlottesville, Virginia, to Marquette. It was very common to drop into his office and find him on the phone conferring with one or another of his kids about school projects or applications to college. Gordon finally retired from Marquette in 2015 to return to teaching at the University of Virginia Law School where he could be closer to his family. In what had to be one of the most joyous days of Professor

Hylton's life, he was able to witness his oldest daughter Veronica's wedding in his hospital room surrounded by his children, family, and close friends.